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OFFICE OF PETITIONS

DECISION ON PETITION

In re Application of
Callow
Application No. 09/870,135
Filed: May 30, 2001
Attorney Docket No. 056848-5003

This is a decision on the petition under 37 CFR 1.181, filed on March 10, 2006, to withdraw the holding of abandonment.

On January 14, 2004, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period to reply. In the apparent absence of a timely response, the application became abandoned on April 15, 2004. On February 24, 2006, the Office mailed a Notice of Abandonment.

Petitioner asserts that a proper response was filed timely. In support of the petition, petitioner submits a copy of a returned, date-stamped postcard receipt, acknowledging receipt of an Amendment Transmittal Form and an Amendment in the USPTO on April 12, 2004. A copy of the response is included with this petition.

The Office has not located the original correspondence. Section 503 of the MPEP states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response was filed timely in the USPTO on April 12, 2004, but was not matched with the application.

For the reasons stated above, the petition is **granted**. The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn. The application will be returned to its pending status.

This matter is being referred to Technology Center Art Unit 3724.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

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